

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Brett Valiquet (Reg. # 27,841) on 10 March 2009.

The application has been amended as follows:

Claims 89-92 are **cancelled**.

DETAILED ACTION

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance:

A decision was rendered by the Board of Patent Appeals and Interferences on 03 March 2009.

The decision reversed Examiner on the rejections of claims 39-88, and affirmed Examiner on the rejections of claims 89-92. After a consultation, Examiner was authorized by Applicant's representative to cancel claims 89-92, thus leaving only the claims whose rejections were reversed by the Board.

MPEP § 1214.04 states that the "examiner should never regard such a reversal as a challenge to make a new search to uncover other and better references." An update of the previous search does not reveal any references which indicate non-patentability of any of the claims. The closest prior art discovered are the previously cited references listed in item 8 on pages 2-3 of the Examiner's Answer dated 11 March 2008, which the Board has held do not anticipate any of claims 39-88 and/or render any of claims 39-88 obvious to one of ordinary skill in the art at the time of the invention. Accordingly, the present application is in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is (571)272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A Thompson/
Primary Examiner, Art Unit 2625

12 March 2009